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Henry Tien Lo
3609 Melonies Drive., #96
Las Vegas, NV 89103

MAY 23 2006

OFFICE OF PETITIONS

In re Application of: :
LO, Henry, Tien : DECISION ON PETITION FOR
Application No.: 09/688,277 : REVIVAL OF ABANDONED
Filing Date: October 12, 2000 : APPLICATION UNDER
Attorney's Docket No.: None : 37 CFR 1.137(b)
For: CARD GAME :
:

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed February 08, 2006.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed March 23, 2005, which set a shortened statutory period of reply of three (3) months. On September 22, 2005, applicant filed an amendment in response to the final Office action, accompanied by the fee for a three-month extension of time. However, as indicated in the Advisory Action mailed November 01, 2005, the amendment was not sufficient to place the application in condition for allowance. Accordingly, the application became abandoned as of midnight on September 23, 2005.

On February 08, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of a Request For Continued Examination (RCE), with fee (the amendment previously filed on September 22, 2005 satisfies the submission requirement of 37 CFR 1.114). Accordingly, the reply to the final Office action of March 23, 2005 (in the form of the RCE and submission) is accepted as having been unintentionally delayed.

It is noted that applicant has requested a refund of the petition fee because a Notice of Abandonment was mailed herein on 29 September 2005, prior to the issuance of the Advisory Action on November 01, 2005. It is not clear why the mail date of the Notice of Abandonment should entitle applicant to a refund of the present petition fee; no argument has been presented to suggest that the holding of abandonment is improper. As discussed above, the present application became abandoned due to the failure of applicant's September 22, 2005 post-final submission to put the application in condition for allowance; any subsequent petition to revive the application under 37 CFR 1.137(b) must meet all the requirements for such a petition, including payment of the petition fee. The mail date of the Notice of Abandonment is irrelevant with respect to this requirement. Accordingly, a refund of the petition fee is not appropriate under the present circumstances.

The application file is being referred to Technology Center AU 3711

Telephone inquiries concerning this decision should be directed to the undersigned at
(571) 272-3296.



Richard M. Ross
Attorney Advisor